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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION
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18 <i>In re:</i> ConocoPhillips Co. Service Station)	Case No. M:09-cv-02040-RMW
Rent Contract Litigation)	<u>JOINT STIPULATION TO SEVER MDL</u>
)	<u>CASE AND JUDGMENT</u>
19)	
20)	

21 WHEREAS, on April 13, 2011, the Court granted ConocoPhillips' Motion to Dismiss the
22 Second Amended Complaint (Docket No. 98), dismissing Plaintiffs' First, Second and Third
23 Claims without leave to amend, but granting twenty days leave to amend as to other claims.

24 WHEREAS, on April 20, 2011, Plaintiff, NRU INC. filed an amended complaint,
25 asserting a Fourth Claim for Relief for Violations of California Business and Professions Code
26 §21140, et seq. and a Fifth Claim for Relief for violations of California Business and Professions
27 Code §17200 (Docket No. 100).
28

1 WHEREAS, on May 23, 2011, ConocoPhillips filed its Answer to NRU's amended
2 complaint (Docket No. 102).

3 WHEREAS, the MDL plaintiffs intend to appeal the Court's Order dismissing their MDL
4 claims. Consequently, the parties believe that the MDL claims that were dismissed pursuant to
5 the Court's April 13, 2011 Order (Docket No. 98) should be severed from NRU's individual
6 claims (Docket No. 100) and that Judgment be entered on those MDL claims, which are distinct
7 from NRU's individual claims.

8 WHEREAS, ConocoPhillips intends to bring a motion for attorneys fees and costs
9 incurred with regard to the dismissed MDL claims.

10 IT IS NOW THEREFORE STIPULATED by and between all of the parties to this action,
11 by and through their respective counsel of record that:

- 12 1. The MDL claims may be severed from NRU's pending claims;
- 13 2. Judgment in ConocoPhillips' favor may be entered on the dismissed MDL claims;
- 14 3. ConocoPhillips' last day by which to bring a motion for attorneys fees and costs
15 incurred in connection with the dismissed MDL claims shall be 30 days after entry of judgment
16 on the MDL claims;
- 17 4. The Plaintiffs reserve the right to oppose ConocoPhillips' intended motion for
18 attorneys fees and costs on any and all grounds that may apply, except that Plaintiffs agree not to
19 oppose such motion for attorneys fees and costs on the grounds that ConocoPhillips must wait
20 until final judgment of NRU's remaining claims.

21 Dated: September 16, 2011

GLYNN & FINLEY, LLP

22 By /s/ Adam Friedenberg
23 Attorneys for Defendant
ConocoPhillips Company

24 Dated: September 16, 2011

BLEAU FOX, A P.L.C.

25 By /s/ Thomas P. Bleau
26 Attorneys for Plaintiffs
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In re: ConocoPhillips Co. Service Station
Rent Contract Litigation

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Case No. M:09-cv-02040-RMW
¶ JUDGMENT

By Order dated April 13, 2011, the Court granted Defendant, ConocoPhillips Company's ("ConocoPhillips") Motion to Dismiss the Second Amended Complaint (Docket No. 98), dismissing Plaintiffs' First, Second and Third Claims (the "MDL Claims") without leave to amend, but granting twenty days leave to amend as to other claims. On April 20, 2011, Plaintiff, NRU INC. filed an amended complaint, asserting a Fourth Claim for Relief for Violations of California Business and Professions Code §21140, et seq. and a Fifth Claim for Relief for violations of California Business and Professions Code §17200 on behalf of itself only (Docket No. 100) ("NRU Claims"), which claims are distinct from the "MDL" claims that have been dismissed pursuant to the Court's April 13, 2011 Order (Docket No. 98).

Therefore, pursuant to Stipulation by and between all parties to this action and for good cause, the Court hereby ORDERS, ADJUDGES AND DECREES that:

1. the NRU Claims are hereby severed from the MDL Claims that had been dismissed pursuant to the Court's April 13, 2011 Order;
2. Plaintiffs shall take nothing by reason of their MDL Claims against ConocoPhillips and Judgment is hereby entered on such MDL Claims;

1 3. ConocoPhillips shall have thirty (30) days from entry of this Judgment to file
2 a motion for attorneys fees and costs incurred in connection with the
3 dismissed MDL Claims.

4 IT IS SO ORDERED.

5
6 Dated: JEGJ, 2011

By: *Ronald M. Whyte*
The Honorable Ronald M. Whyte
United States District Judge